

PATENT COOPERATION TREATY

From the:
INTERNATIONAL SEARCHING AUTHORITY

REC'D 19 APR 2005
PCT
WIPO

To:

Griffith Hack
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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

(PCT Rule 43bis.1)

| | | |
|---|---|---|
| | | Date of mailing (day/month/year) 11 APR 2005 |
| Applicant's or agent's file reference FP20940-RJW | | FOR FURTHER ACTION See paragraph 2 below |
| International application No. PCT/AU2005/000013 | International filing date (day/month/year) 7 January 2005 | Priority date (day/month/year) 8 January 2004 |
| International Patent Classification (IPC) or both national classification and IPC Int. Cl. 7 A61B 17/68 | | |
| Applicant ALLISON, David, Mark | | |

1. This opinion contains indications relating to the following items:

| | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

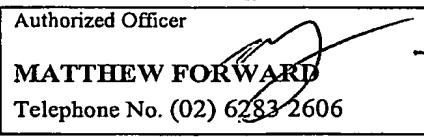
2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

| | |
|---|--|
| Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929 | Authorized Officer  MATTHEW FORWARD Telephone No. (02) 6283 2606 |
|---|--|

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

Internal

PCT/AU2005

Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material
 in written format
 in computer readable form
 - c. time of filing/furnishing
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/AU2005/000013

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| Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
|------------------|---|

1. Statement

| | | |
|-------------------------------|------------------------------|-----|
| Novelty (N) | Claims 6, 8-14, 16 | YES |
| | Claims 1-5, 7, 15, 17 | NO |
| Inventive step (IS) | Claims 10-14, 16 | YES |
| | Claims 1-9, 15, 17 | NO |
| Industrial applicability (IA) | Claims 1-17 | YES |
| | Claims | NO |

2. Citations and explanations:

- D1 EP 0654250
- D2 WO 2003/007831
- D3 WO 2002/009607
- D4 US 4444181
- D5 EP 0955011

Novelty (N) Claims 1-5, 7, 15, 17

Claims 1, 2, 7, 15

D1 and D2 explicitly discloses all the essential features of claims 1, 2, 7 and 15. For example, D1 discloses a bone fixing device comprising:

- a pair of spaced apart fixing portions Figure 10, items 108, 110
- having at least one hole Figure 10
- a pair of substantially rigid connecting members Figure 10, items 112, 114
- each fixing portion comprises an annulus Figure 10
- each connecting member having at least one point of weakness Figure 10, items 116, 118

Claims 3, 17

D2 explicitly discloses that the connecting members are deformable symmetrically with respect to a line extending through the pair of fixing portions such that the fixing portions are drawn toward one another along the line.

Claims 4, 5

D2 (see page 9, lines 6-8 and 6B, 6C, and 6E-6H) explicitly discloses to achieve the symmetrical bending the connecting member may be either bent apart or pinched together.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International Application No.

PCT/AU2005/000013

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: V

Inventive Step (IS) Claims 1-9, 15, 17

Claims 1-5, 7, 15, 17

As above. Furthermore, D1 does not individually disclose all the features of Claims 3-5, and 17, but when separately combined with D3, D4, or D5, as would be obvious to a person skilled in the art, disclose all of the features.

Claim 6

D1 and D2 do not individually disclose all the features of this claim, but when separately combined with either D3 or D4, as would be obvious to a person skilled in the art, disclose all of its features.

Claim 8

Citations D1 and D2 do not individually disclose all the features of this claim, but when separately combined with either D4 or D5, as would be obvious to a person skilled in the art, disclose all of its features.

Claim 9

The feature of the fixing portions comprising at least two holes each is not considered to be inventive over either D1 or D2.